DEVELOPMENT DEPARTMENT

G.O. No. 4532. 13th November 1950

Labour—Disputes—Dispute between the employees and the management of the Commonwealth Trust Hosiery Factory, Mangalore—Recommendations of the Industrial Tribunal, Coimbatore—Published.

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DEVELOPMENT DEPARTMENT

G.O. No. 4532, 13th November 1950

Labour—Disputes—Dispute between the employees and the management of the Commonwealth Trust Hosiery Factory, Mangalore—Recommendations of the Industrial Tribunal, Coimbatore—Published.

READ—the following papers:—

I

G.O. Ms. No. 2970, Development, dated 31st July 1950.

II

From the Industrial Tribunal, Coimbatore, dated 26th October 1950, I.D. No. 11/50.

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

PRESENT:

SRI P. V. KRISHNASWAMI, B.A., B.L.,

INDUSTRIAL DISPUTE No. 11 OF 1950.

[In the matter of the dispute between the employees and the management of the Commonwealth Trust Hosiery Factory, Mangalore.]

(G.O. Ms. No. 2970, Development, dated the 31st July 1950.)

Messrs. Menon and Pai, Advocates, Ernakulam—*For the Management.*

Sri K. Sasi Dhara Rao, B.A., B.L., Advocate and President of the South Kanara Commercial Employees' Association, Mangalore—*For Sri Elias Lobo and Sri Thomas Noronha.*

AWARD.

Reference under section 10 (1) of Central Act XIV of 1947 to decide the issues—

(1) whether Sri Thomas Noronha and Sri Elias Lobo are entitled to be reinstated with back pay as they are not the juniormost in service;

(2) what compensation is Sri Maurice Bastion entitled to at the time of retrenchment.

2. The employer is the Commonwealth Trust Hosiery Factory, Mangalore, and the employees originally were represented by the Secretary, South Kanara Commercial Employees' Union, Mangalore.

3. *Issue* 2.—No statement has been filed by Sri M. Bastion who was absent during inquiry and was not represented by the Employees' Union. It was stated that he had left for Bombay for employment. Issue 2 is found against him.

4. Sri K. Sasi Dhara Rao, Advocate and President of the Employees' Union, represents Messrs. Noronha and Lobo who filed a statement that they had been in the firm for about five years and were chosen for termination of services on account of their Union activities despite dissuasion and warning. New clerks have since been entertained. They were told that their claims to bonus when declared will not be prejudiced and therefore they signed "no claim form". They claim reinstatement with the salary for the period and the bonus for 1st October 1948 to 30th September 1949.

5. The employer's answer is that the allegations regarding victimization for trade union activities are untrue since "the management was not even aware that Sri Lobo and Sri Noronha were members of the Union," the management "does not object to legitimate trade union activity" and "the majority of their staff are members of the Association." The retrenchment was bona fide with due regard to efficiency and other relevant considerations. No new clerical staff has since been entertained. Sri Bastion was the juniormost clerk. "All the employees in question have accepted a month's salary in lieu of notice and any claim for reinstatement or other reliefs by them is unsustainable not only on the facts of the case but in law as well."

6. During trial, the clerks concerned admitted that in lieu of notice they have each received a full month's salary for which they have passed receipts "in full and complete settlement" of all claims. It is therefore urged for the employer that having thus received compensation, the employees are not entitled to reinstatement or arrears of salary since termination of services. Reliance for these contentions is placed on the three rulings in Shoranur Metal Industries, Limited, and their workers—1949 Labour Law Journal, page 745 at page 750; the Narasu's Manufacturing Company, Salem, and their workers—1949 Labour Law Journal, page 336 at page 341; and Messrs. Peirce Leslie and Company, Limited, Kundara, and their workers—1950. Labour Law Journal, page 483 at pages 484 and 487. As against these, the learned Advocate for the employees said he had no authority to cite. It follows, therefore, that none of these two employees is entitled to be reinstated and I so find.

7. Mr. Burnett, the General Manager of the Commonwealth Trust, Limited, has stated that he is willing to pay in due course the bonus these employees are found entitled to.

Coimbatore,
28th October 1950.

P. V. KRISHNASWAMI,
Industrial Tribunal.

Order—No. 4532, Development, dated 13th November 1950.

Whereas the award of the Industrial Tribunal, Coimbatore, in respect of the industrial dispute between the employees and the management of the Commonwealth Trust Hosiery Factory, Mangalore, has been received;

Now, therefore, in exercise of the powers conferred by section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby directs that the said award be published in the *Fort St. George Gazette.*

(By order of His Excellency the Governor)

P. S. VISWANATHA AYYAR,
Secretary to Government.

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" Commissioner of Labour, Madras (20 copies).
" District Magistrate, Malabar.
" Management, Commonwealth Trust Hosiery Factory, Mangalore.
Secretary, South Kanara Commercial Employees' Union, Mangalore.

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" Regional Labour Commissioner (Central), Flat No. 12, First Floor, Khaleeli Mansions, Mount Road, Madras.
" Regional Director of Resettlement and Employment, Cathedral Post, Madras.

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" Registrar, Labour Appellate Tribunal, Council Hall, Bombay (6 copies).
" Deputy Commissioner of Labour (Information), Fort Bombay.

3

From
Sri P.V.Krishnaswami, B.A., B.L.,
Industrial Tribunal,
Brahmin Extension,
Coimbatore.

To
The Secretary to Government,
Development Department,
Fort St. George,
Madras.

PUBLIC DEPARTMENT
ASSISTANT SECRETARY TO GOVERNMENT
31 OCT 1950
BOARD OF REVENUE

Sir, I.D. 43/50 Dated: 28-10-50 (D.No. 206/50

Sub: Labour - Disputes - Disputes between the employees and the management of Commonwealth Trust Hosiery Factory, Mangalore - adjudication - submission of Award.

109201

Ref. G.O.Ms.No.2970 Development dated the 31st July 1950.

I have the honour to submit herewith my Award in duplicate in the disputes between the employees and the Management of the Commonwealth Trust Hosiery Factory, Mangalore, which were referred to me for decision.

INDUSTRIAL TRIBUNAL,
Coimbatore.

nkM/-
Enc: 2

28/X.

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

Present: Sri P.V.Krishnaswami,B.A.,B.L.,

Industrial Dispute No.11 of 1950.

In the matter of the dispute

BETWEEN

the employees

AND

The Management of the Commonwealth Trust Hosiery Factory, Mangalore.

(G.O.Ms.No. 2970 Development dated the 31st July 1950.)

~~Mr.Burnett, General Manager, Commonwealth Trust, Ltd. Calicut.~~ Messrs MENON & Pai Advocates ERNAKULAM.) For the Management.

Sri K.Sasi Dhar Rao, B.A.B.L., Advocate, & President of the South Kanara Commercial Employees Association, Mangalore.) For ~~the~~ Sri Elias Lobo and Sri Thomas Noronha.

AWARD.

1. Reference under Sec.10(1) of Central Act XIV/47 to decide the issues:-

(1) whether Sri Thomas Noronha and Sri Elias Lobo are entitled to be reinstated with back pay as they are not the juniormost in service.

(2) What compensation is Sri Maurice Bastion entitled to at the time of retrenchment.

2. The employer is the Commonwealth Trust Hosiery Factory, Mangalore and the employees originally were represented by the Secretary, South Kanara Commercial Employees Union, Mangalore.

3. Issue 2. No statement has been filed by Sri M.Bastion who was absent during inquiry and was not represented by the Employees' Union. It was stated that he had left for Bombay for employment. Issue 2 is found against him.

4. Sri K.Sasi Dhara Rao, Advocate and President of the Employees' Union represents Messrs.Noronha and Lobo who filed a statement that they had been in the firm for about 5 years

and were chosen for termination of services on account of their Union activities despite dissuasion and warning. New clerks have since been entertained. They were told that their claims to bonus when declared will not be prejudiced and therefore they signed "no claim form". They claim reinstatement with the salary for the period and the bonus for 1-10-48 to 30-9-49.

5. The employer's answer is that the allegations regarding victimisation for trade union activities are untrue since "the management was not even aware that Sri Lobo and Sri Noronha were members of the Union:" the management "does not object to legitimate trade union activity" and "the majority of their staff are members of the Association." The retrenchment was bonafide with due regard to efficiency and other relevant considerations. No new clerical staff has since been entertained. Sri Bastion was the juniormost clerk. "All the employees in question have accepted a month's salary in lieu of notice and any claim for reinstatement or other reliefs by them is unsustainable not only on the facts of the case but in law as well."

6. During trial, the clerks concerned admitted that in lieu of notice they have each received a full month's salary for which they have passed receipts "in full and complete settlement" of all claims. It is therefore urged for the employer that having thus received compensation, the employees are not entitled to reinstatement or arrears of salary since termination of services. Reliance for these contentions is placed on the three rulings in Shoranur Metal Industries, Ltd., and their workers - 1949 Labour Law Journal page 745 at page 750; The Narasu's Manufacturing Co., Salem and their workers - 1949 Labour Law Journal page 336 at page 341; and M/s Peirce Leslie & Co., Ltd., Mundara and their workers - 1950 Labour Law Journal page 483 at pages 484 and 487. As against these, the learned Advocate for the employees said he had no authority

7/5

to cite. It follows therefore that none of these two employees is entitled to be reinstated and I so find.

7. Mr.Burnett, the General Manager of the Commonwealth Trust,Ltd., has stated that he is willing to pay in due course the bonus these employees are found entitled to.

Coimbatore.)
Dated 28-10-50)

INDUSTRIAL TRIBUNAL,
Coimbatore.

RKM/-

Dept Dept 9

Take two copies in issue form.

Two drafts

Subject - Labour - Disputes - Dispute between the employees and the management of the Commonwealth Trust Hosiery Factory, Mangalore - Recommendations of the Industrial Tribunal, Coimbatore - Published.

Ref (A) Read - G.O. MS. No. 2970 Dept d 31-7-50.

cf From the Industrial Tribunal Coimbatore, I.D. No. 11/50 dated 26-10-50.

G.O. MS. No. 4532 dated 13-11-50.

c.f Whereas the award of the Industrial Tribunal, Coimbatore in respect of the industrial dispute between the employees and the management of the Commonwealth Trust Hosiery, Factory, Mangalore has been received;

Now, therefore, in exercise of the powers conferred by section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the governor of Madras hereby directs that the said award be published in the Fort St George gazette.

CM 7.11.50. PS 7.11.50. CPG 7.11.50

To The Industrial Tribunal Coimbatore

To The C of L (20 copies)

" D.M. Malabar

" Management, Commonwealth Trust Hosiery Factory, Mangalore.

" Secy, South Kanara Commercial Employees Union, Mangalore.

P.T.O.

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To The Industrial Tribunal, Vijayawada at Guntur.
To The Industrial Tribunal I High Court Buildings, Madras.
To The Industrial Tribunal II Block No. XVI Fort St. George, Madras
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To The Regional Director of Resettlement and Employment, Cathedral Post, Madras.
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To the management, commonwealth Trust
Hosiery Factory, Mangalore

To The Secretary, South Kanara commercial
Employees' union, Mangalore.

13.12.

special to issue
CM
14-11-50

II

Devt Dept 153

Memo No. 10720 I PL/50-1 Pt 4 · 11-50.

Sub:- Labour - Disputes - Dispute between the ~~clerical staff~~ employees and the management of commonwealth Trust Hosiery Factory, Mangalore - Recommendations of the Industrial Tribunal, Coimbatore - Published.

Draft or in Labour

Ref - G.O. MS 4532 dated 13-11-50

The S.G.P. is requested to publish the G.O. read above along with the award in the F.S.G. Gazette dated the 21st November 1950 without fail and to send to this Dept 55 signature copies and 100 spare copies immediately thereafter with reference to G.O 4144 dated 12-10-50. The G.O. should contain the address entries also.

noted & issued
15/11/50

To the S/G/P.
Copy to D. of L. } with copy of pp 1-7 above.

CM 7.11.50
PS 7.11.50

87/7/11/50

Dev

C M 10930 12/50

Sub:- Labour - Disputes - Dispute between the employees and the management of Commonwealth Trust Hosiery Factory, Mangalore - Recommendations of the ~~Indus~~ Industrial Tribunal, Coimbatore.

Ref:- From the Industrial Tribunal, Coimbatore I.D. # 11/50. dated 28.1.50.

An industrial dispute arose between the employees and the management of the Commonwealth Trust Hosiery Factory, Mangalore over the retrenchment of three clerks. As the parties to the dispute were unable to arrive at an amicable settlement, the dispute was referred to the Industrial Tribunal, Coimbatore for adjudication. After enquiry the Tribunal has submitted an award with the recommendation that the two clerks Sri. Thomas Noronha and Sri. Elias Lobo are not entitled to reinstatement and the clerk Sri. Maurice Bastion is not entitled to any compensation.

The award has to published in the Fort. St. George Gazette with reference to section 17 of the Industrial Disputes Act. A draft order and a draft memo to the S.G.P. are submitted for approval. (No summary need be published in this case).